

Message Text

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ORIGIN L-03

INFO OCT-01 AF-06 ISO-00 SCA-01 JUSE-00 INR-07 /018 R

DRAFTED BY L/M:SHWHILDEN:MFM

APPROVED BY L/M:KEMALMBORG

AF/EX - MRYAN (SUBS)

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P 131843Z JAN 76

FM SECSTATE WASHDC

TO AMEMBASSY NAIROBI PRIORITY

UNCLAS STATE 007952

E.O. 11652: N/A

TAGS: ALIT, KE

SUBJECT: CIVIL CLAIM AGAINST EMBASSY - AUTO ACCIDENT
OF 12/2/70

REF: (A) NAIROBI 7869 (B) NAIROBI 9639

CONSIDERABLE ADDITIONAL INFORMATION ON SUBJECT CLAIM IS
NEEDED BEFORE EMBASSY CAN BE ADVISED AS TO PROPER COURSE
OF ACTION.

1. DOCUMENTS TRANSMITTED TO US DO NOT SPECIFY PARTIES WITH
REASONABLE CERTAINTY: WHO IS PLAINTIFF? WHO IS NAMED
DEFENDANT-EMBASSY DRIVER? EMBASSY? AMBASSADOR? USG?

2. HAS EMBASSY EVER BEEN SERVED IN THIS CASE? PARA 4
REFTEL A SAYS ONLY THAT "COURT SUMMONS WAS RECEIVED BY
EMBASSY DRIVER ON OR ABOUT FEBRUARY 1974"; PARA 2 REFTEL B
SAYS "POST RECEIVED GOK HIGH COURT SUMMONS"-RAISING QUES-
TION WHETHER WE ARE DEALING WITH ONE SUMMONS (ON DRIVER) OR
TWO (ON DRIVER AND ON EMBASSY). IF SERVICE HAS NOT BEEN
MADE ON USG, HAVE WE NEVERTHELESS MADE ANY FORMAL COURT
APPEARANCE? WHAT IS STATUTE OF LIMITATIONS FOR TORT AC-
TIONS IN KENYA?

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3. WHAT EVIDENCE, IF ANY, EXISTS TO SUPPORT CONCLUSION THAT EMBASSY DRIVER WAS AT FAULT?

4. HOW DO KAPLAN AND STRATTON EVALUATE TRIAL RISK IN EVENT WE WOULD HAVE TO DEFEND CASE IN COURT?

5. WHAT IS FEE ARRANGEMENT WITH KAPLAN AND STRATTON?

6. RE PARA 5 REFTTEL B, WHAT NOTICE DID EMBASSY RECEIVE RE MARCH 1975 TRIAL DATE (OTHER THAN STATEMENT OF KAPLAN AND STRATTON)?

7. RE PARA 6 REFTTEL A, KAPLAN AND STRATTON RECOMMEND SETTLEMENT "PARTICULARLY HAVING REGARD TO THE INJURIES SUFFERED BY PLAINTIFF." INJURIES, THOUGH REGRETTABLE, ARE OF NO MOMENT IF EMBASSY IS NOT LIABLE. TO SHED LIGHT ON THIS AND OTHER QUESTIONS, EMBASSY SHOULD FORWARD BY AIR POUCH TO DEPARTMENT LEGAL ADVISER - L/M K.E. MALMBORG- COPIES OF ALL COURT PAPERS, CORRESPONDENCE WITH COUNSEL AND WITH INSURANCE CARRIER, AND RE PARA 3 REFTTEL A, COPIES OF DECEMBER 22, 1971 LETTER TO AMBASSADOR AND HIS REPLY. KISSINGER

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